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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)	
)	
MUR 6433)	
BRYAN ROY LENTZ)	CASE CLOSURE UNDER
LENTZ FOR CONGRESS AND)	THE ENFORCEMENT
JOSEPH G. SAUDER, AS TREASURER)	PRIORITY SYSTEM
JAMES D. SCHNELLER)	
FRIENDS OF JIM SCHNELLER FOR)	
CONGRESS COMMITTEE AND)	
JAMES D. SCHNELLER, AS TREASURER)	

GENERAL COUNSEL'S REPORT

Under the Enforcement Priority System ("EPS"), the Commission uses formal scoring criteria to allocate its resources and decide which cases to pursue. These criteria include, but are not limited to, an assessment of (1) the gravity of the alleged violation, both with respect to the type of activity and the amount in violation, (2) the apparent impact the alleged violation may have had on the electoral process, (3) the legal complexity of issues raised in the case, (4) recent trends in potential violations of the Federal Election Campaign Act of 1971, as amended ("Act"), and (5) development of the law with respect to certain subject matters. It is the Commission's policy that pursuing low-rated matters, compared to other higher-rated matters on the Enforcement docket, warrants the exercise of its prosecutorial discretion to dismiss certain cases or, when the allegations are speculative and are sufficiently refuted by the responses, to make no reason to believe findings. For the reasons set forth below, this Office recommends that the Commission make no reason to believe findings in MUR 6433.

In this matter, complainant Andrew J. Reilly alleges that candidate Bryan Roy Lentz, his campaign committee, Lentz for Congress and Joseph G. Sauder, in his official capacity as treasurer (the "Lentz Committee"), may have illegally coordinated with American Congress

1 Party candidate Jim Schneller and his campaign committee, Schneller for Congress and James
2 D. Schneller, in his official capacity as treasurer (the "Schneller Committee").¹ Specifically, the
3 complainant alleges that individuals apparently associated with Mr. Lentz's campaign, including
4 "a number of prominent Democratic Party officials, as well as Lentz campaign volunteers,"
5 allegedly aided Mr. Schneller's (ultimately successful) effort to qualify for the general election
6 ballot by gathering signatures for his ballot eligibility petition. *See, e.g.*,
7 http://articles.philly.com/2010-08-03/news/24969991_1_filing-deadline-mechan-supporters and
8 <http://www.politicspa.com/schneller-on-democrat-help-thrsts-dreadful/14410/>. The complainant
9 takes the position that, without the assistance of numerous Democratic Party officials and Lentz
10 supporters, it was unlikely that Mr. Schneller would have obtained the 4,200 signatures
11 necessary to allow his name to be placed on the general election ballot as a third-party candidate.
12 These efforts, the complainant suggests, may have constituted unreported in-kind contributions
13 from the Lentz Committee to the Schneller Committee.

14 Further, the complainant states that Kristen Kepics, the individual who notarized a
15 number of Mr. Schneller's nominating petitions, testified at a deposition that she was paid \$100
16 in cash for her notary services.² However, according to the complainant, Mr. Schneller denied
17 paying Ms. Kepics or receiving a receipt. Accordingly, the complainant maintains that neither
18 the Schneller nor the Lentz Committees reported the \$100 payment to Ms. Kepics as an in-kind
19 contribution or a disbursement, respectively, on their FEC reports.

¹ Messrs. Lentz and Schneller were unsuccessful candidates for Congress in 2010 from Pennsylvania's Seventh Congressional District.

² See http://articles.philly.com/2010-10-28/news/24954117_1_notary-fec-third-party-candidate.

1 Both the Lentz and the Schneller Committees filed responses to the complaint. First,
2 according to the Lentz Committee, the complaint, by its terms, alleges only that the two
3 campaigns may have had volunteers in common. The Lentz Committee further states that the
4 allegations in the complaint fail to allege specific services by the Lentz Committee that were
5 "directly attributable to the Schneller campaign." As for the \$100 notary payment at issue, the
6 Lentz Committee denies making the payment. The Lentz Committee further observes that the
7 complainant has failed to demonstrate that the payment would have resulted in a reportable
8 contribution to, or expenditure by, the Lentz campaign, particularly since Mr. Schneller was
9 running in opposition to Mr. Lentz, as well as the incumbent, Representative Pat Meehan.

10 Second, in a sworn response, the Schneller Committee contends that any Lentz
11 Committee workers who circulated petitions on behalf of the Schneller campaign did so as
12 volunteers without the approval of the Committee.³ Moreover, the Schneller Committee asserts
13 that it did not pay any of these individuals for their services. In addressing the \$100 notary fee,
14 the Schneller Committee implies in its response that the fee at issue falls below the \$200
15 threshold for itemization of expenses. Nevertheless, the Committee is claiming that the \$100 at
16 issue was subsumed in a \$1,423.99 expenditure disclosed on its 2010 October Quarterly Report,
17 for "Court Fees, Legal Printing, Legal Postage," dated September 30, 2010. The Committee also
18 apparently disputes some of the alleged costs of notarizing Mr. Schneller's nominating papers.
19 In an e-text attachment to its 2010 Post-General Report, the Committee asserts that it was

³ The Schneller Committee states in its response that, "[s]imply put, since 170 or so said petition ... pages were collected by interlopers, those pages cannot be in-kind contributions because they were not collected on behalf of the campaign nor in cooperation, consultation, nor concert with it. Rather, they were collected by 'volunteers' not allied with the campaign, but rather working for ulterior motives, and none of those volunteers signed any agreement nor even a sign up sheet of any kind with this campaign." There is no specific allegation in the Committee's response that the "volunteers" fraudulently misrepresented themselves in the course of their canvassing activities. See 2 U.S.C. § 441b(a) (prohibition against agents associated with a federal committee to fraudulently misrepresent themselves as acting on behalf of another candidate or political committee).

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1 reporting \$672.00 in costs allegedly incurred in connection with notarizing all but two pages of
2 Mr. Schneller's nominating petitions from the time period between July 20, 2010 and August 1,
3 2010 as "arguably in-kind contributions." According to the Schneller Committee, it chose not to
4 reimburse these costs which, it asserts, were not incurred "on the committee's behalf."

5 There is no indication that the individuals who allegedly assisted Mr. Schneller's ballot
6 qualification efforts acted as anything but volunteers. Thus, even if the facts posited by the
7 complainant are accurate, the value of the volunteers' services would not constitute reportable
8 contributions, *see* 2 U.S.C. § 431(8)(B) and 11 C.F.R. § 100.74. With respect to the \$100 notary
9 fee, although the Schneller Committee's response is not precise on this issue, it appears that the
10 fee may have been paid or partially paid and previously reported on its 2010 October Quarterly
11 Report. In addition, contrary to the complainant's apparent contention, expenditures aggregating
12 \$200 or less to an individual must be disclosed, *see* 2 U.S.C. § 434(b)(4), but need not be
13 individually itemized on Schedule B. *See* 2 U.S.C. § 434(b)(5)(A). Similarly, contributions
14 aggregating \$200 or less need not be individually itemized on Schedule A, *see* 2 U.S.C.
15 § 434(b)(3)(A).

16 Based on the foregoing reasons, the Office of General Counsel recommends that the
17 Commission find no reason to believe that Bryan Roy Lentz, Lentz for Congress and Joseph G.
18 Sauder, in his official capacity as treasurer, and Friends of Jim Schneller for Congress
19 Committee, and James D. Schneller, in both his individual and official capacity as treasurer,
20 violated the Federal Election Campaign Act of 1971, as amended, and Commission regulations,
21 close the file, and approve the appropriate letters.

RECOMMENDATIONS


1. Find no reason to believe that Bryan Roy Lentz, Lentz for Congress and Joseph G. Sauder, in his official capacity as treasurer, and Friends of Jim Schneller for Congress Committee, and James D. Schneller, in both his individual and official capacity as treasurer, violated the Federal Election Campaign Act of 1971, as amended, and Commission regulations.
2. Close the file and send the appropriate letters.

Anthony Herman
General Counsel

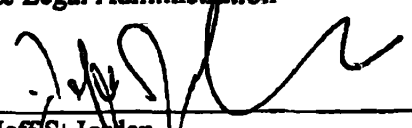
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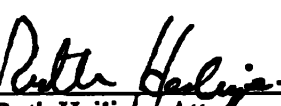
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